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The Honorable Ron Wyden
United States Senate
Washington, D.C.

Dear Senator Wyden:

The House and Senate have adopted significantly different versions of the *Healthy Forests Restoration Act of 2003* (H.R. 1904). Subsequent informal discussions have yielded a “compromise” version that will be considered in conference. For the reasons discussed below, FSEEE urges you to resist any attempt to change the compromise version in conference or otherwise.

As passed by the House, H.R. 1904 would 1) cut the “heart” from the National Environmental Policy Act by eliminating the examination of alternatives to the proposed action that might better meet the action’s purposes (see §104(b)); 2) create more litigation by requiring opponents to a project to file lawsuits within 15 days (see § 106(a)(1)); and, 3) interfere with the court’s traditional equitable powers by instructing judges to give weight to the agency’s determination of harm even where the agency has been found to have violated the law and even for projects that do not reduce hazardous fuels (see § 107(b)). Further, these tears in the fabric of existing environmental law and court process could be used to promote logging projects in irreplaceable ancient forests or roadless areas.

As agreed to in the compromise version, H.R. 1904 would 1) focus NEPA’s alternatives requirement on comparisons between the no-action and action alternatives (see § 104(b)), except in the wildland-urban interface where only a community’s wildfire protection plan need be evaluated as an alternative, if not otherwise incorporated in the agency’s proposed action (see § 104(d)); 2) allow sufficient opportunity to resolve environmental concerns without forcing a rushing to court (see § 105); and, 3) retain the court’s inherent equitable powers to balance the harms to all parties and consider the public interest when issuing the extraordinary remedy of an injunction (see § 106). Further, the compromise version directs the agencies to maintain, or where not present contribute to the restoration of, the structure and composition of old-growth forest stands (see § 102(e)(2)). This provision should focus the agencies’

efforts on using the bill's special authorities for bona fide fuels reduction projects, not commercial timber sales.

On balance, it is the opinion of Forest Service Employees for Environmental Ethics that the compromise version of H.R. 1904 will better promote the restoration of healthy forests while protecting the public's right to participate in forest management and the judiciary's role in ensuring accountability than would the House bill. We urge the conferees to adopt the compromise without further change.

Sincerely,
Andy Stahl
Executive Director